

Senate Bill No. 1158

CHAPTER 382

An act to amend Sections 18572 and 19109 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 19, 2012. Filed with
Secretary of State September 19, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1158, Price. Income taxes: administration.

The Personal Income Tax Law conforms to federal law by allowing the postponement of certain tax-related deadlines for those taxpayers affected by federally declared disasters or terroristic or military action.

This bill would extend the provisions relating to postponement to those taxpayers determined by the Franchise Tax Board to be affected by a state of emergency declared by the Governor of California.

Existing law provides for an abatement of interest accrued against the income tax liability of an individual during a filing extension period authorized for individuals determined to be affected by a presidentially declared disaster, if that individual is located in an area affected by a presidentially declared disaster or in a county or city that is proclaimed by the Governor to be in a state of disaster.

This bill would additionally authorize the Franchise Tax Board, after a written request by a taxpayer, to abate specified interest accrued against the income tax liability of individuals, under specified circumstances related to a presidentially declared disaster or in a county or city that is proclaimed by the Governor to be in a state of emergency, as provided.

The people of the State of California do enact as follows:

SECTION 1. Section 18572 of the Revenue and Taxation Code is amended to read:

18572. (a) Section 7508A of the Internal Revenue Code, relating to postponement of certain tax-related deadlines, shall apply, except as otherwise provided.

(b) Section 7508A of the Internal Revenue Code, relating to postponement of certain tax-related deadlines, shall apply to a taxpayer determined by the Franchise Tax Board to be affected by a state of emergency declared by the Governor.

SEC. 2. Section 19109 of the Revenue and Taxation Code is amended to read:

19109. (a) If the Franchise Tax Board extends for any period the time for filing a return under Section 18572 or subdivision (a) of Section 18567 and the time for paying the tax under Section 18572 or subdivision (c) of Section 18567 (and waives any penalties relating to the failure to so file or so pay) for any taxpayer located in a presidentially declared disaster area or any county or city in this state which is proclaimed by the Governor to be in a state of emergency that incurred a loss, the Franchise Tax Board shall abate for that period the assessment of any interest prescribed under this article on that tax.

(b) (1) The Franchise Tax Board may, after written request by a taxpayer, abate the interest on any deficiency or related to a proposed deficiency described in Section 19033 or on a payment of tax to the extent that interest is attributable in whole or in part to the Franchise Tax Board's delay in the mailing of a notice or other correspondence that requires a response from a taxpayer, in connection with a presidentially declared disaster area, or any county or city in this state that is proclaimed by the Governor to be in a state of emergency.

(2) (A) Except as provided in paragraph (4), after the Franchise Tax Board mails its notice of determination not to abate interest, a taxpayer may appeal the Franchise Tax Board's determination to the board within the following period, as applicable:

(i) Thirty days in the case of any unpaid interest described under paragraph (1).

(ii) Ninety days in the case of any paid interest described under paragraph (1).

(B) The board shall have jurisdiction over the appeal to determine whether the Franchise Tax Board's failure to abate interest under this subdivision was an abuse of discretion, and may order an abatement.

(3) If the Franchise Tax Board fails to mail its notice of determination on a request to abate interest within six months after the request is filed, it shall be considered that the Franchise Tax Board has determined not to abate interest and the taxpayer may appeal that determination to the board. This paragraph shall not apply to requests for abatement of interest made under paragraph (4).

(4) A request for abatement of interest related to a proposed deficiency may be made with the written protest of the underlying proposed deficiency filed under Section 19041 or with an appeal to the board under Section 19045 in the form and manner required by the Franchise Tax Board. The action of the Franchise Tax Board denying any portion of the request for abatement of interest related to the proposed deficiency shall be considered as part of the appeal of the action of the Franchise Tax Board on the protest of the proposed deficiency. If the taxpayer filed an appeal from the Franchise Tax Board's action on the protest of a proposed deficiency and the deficiency is final pursuant to Section 19048, the taxpayer may not thereafter request an abatement of interest accruing prior to the time the deficiency is final. The taxpayer, however, may thereafter request an abatement pursuant to this subdivision limited to the interest accruing after the deficiency is final.

(5) This subdivision shall apply to requests for abatement of interest made on or after the effective date of the act adding this paragraph.

(c) For purposes of this section, the term “presidentially declared disaster area” means, with respect to any taxpayer, any area which the President has determined warrants assistance by the federal government under the Disaster Relief and Emergency Assistance Act.

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